

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS

DAVID WILLIAMS, PRO <u>SE</u>)	
Plaintiff,)	
)	
V.)	
)	
DAVID NOLAN, ALLEN, et., al.)	District Court Docket No.
Defendants.)	05-11104-MLW
)	

PLAINTIFF'S MEMORANDUM OF REASON IN SUPPORT
OF HIS MOTION FOR LEAVE TO AMEND
COMPLAINT

Plaintiff states the reasons in support of this motion for leave to amend his complaint that the claim asserted in the amended complaint arose out of the conduct set forth in the original pleading, although the opportunity to amend is within the sound discretion of the Court, plaintiff brings to the Court attention judgment has not been entered, discovery process has not been completed. Grayson v. Mayview State Hosp., 293 F.3d. 103 (3rd Cir. 2002); O'Hara v. Weeks Marine, Inc., 294 F. 3d. 55, (2nd Cir. 2002).

The policy of the federal rules is to permit amendment to facilitate determination of claims on the merits. Plaintiff's amend complaint brings forth a claim prohibiting free exercise of religion against the defendants clearly established right. Cruz v. Beto, 405 U.S. 319, 92 S.Ct. 1079, (1972); Grutler v. Bollinger, 539 U.S. 306, 327, 123 S.Ct. 2325; Anderson v. Creighton, 483 U.S. 635, 639, 107 S.CT. 3034, (1987); Wisconsin v. Yoder, 406 U.S. 205, (1972).

The plaintiff asserts that in the case before the Court presently a dismissal without permitting a curative amend complaint should only be justified on the grounds of bad faith, undue delay, prejudice

or futility. Lopez v. Smith, 203 F. 3d. 1122, 1127, (9th Cir. 2000).

Plaintiff is a layperson and has no legal training and has limited access to legal books and materials and very limited access to legal assistance. The Court should make a reasonable allowance so that plaintiff does not forfeit his right by virtue of his lack of legal training. Huges v. Rowe, 449 U.S. 5, 9, (1980); Fleming v. United States, F. 3d. 88, 90, (2d. Cir. 1998).

WHEREFORE, plaintiff respectfully request that this Court grant this motion for leave to amend complaint in its entirety.

Respectfully submitted,

David Williams, pro se

Dated: October 31, 2005.

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CERTIFICATE OF SERVICE

I, hereby certify that a true copy of the above document plaintiff's memorandum of reason in support of his motion for leave to amend complaint was served upon Attorney Richard C. McFarland, Legal Division, Department of Correction, 70 Franklin Street, Suite 600, Boston, MA 02110-1300, by first class mail this 31st day of October 2005.

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